

**REMARKS**

This Preliminary Amendment is being filed with a Continued Prosecution Application (CPA) Request.

The above Amendments and following remarks are also responsive to all the points of objection and rejection raised by the Examiner in the non-final Office Action dated March 31, 2003.

Upon entry of the Amendment, claims 1-53 are all the pending claims under examination in the application, and claim 30 will have been amended. No new matter has been introduced by this Amendment. Entry and consideration of the Amendment are respectfully requested.

**1. Status Of Application**

A non-final Office Action dated March 31, 2003, was issued in the application. In the Office Action, claims 9 and 30 are objected under 35 U.S.C. § 112, second paragraph, as being indefinite. Finally, claims 1-53 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Iida (U.S. Pat. No. 6,457,881, hereafter Iida) in view of Lermann et al. US Patent No. 4, 258,998, hereafter Lermann). Additionally, the drawings are objected to for minor deficiencies noted by the Official Draftsperson in the Form 948.

**2. Response to Objections to Drawings:**

In the Office Action, the Examiner has requested new corrected drawings in the application because of the deficiencies noted in the Notice of Draftsperson's Patent Drawing Review (PTO-948). Specifically, the PTO-948 Form states that lines, numbers and letters are not uniformly thick and well defined in Figs. 1-15. Accordingly, Applicants submit the

corrected formal drawings including Figs 1-15 accompanied by a Formal Drawing Transmittal. Approval of Examiner and Draftsperson is respectfully requested.

**3. Response to Rejections Under 35 U.S.C. §112**

In the Office Action, claims 9 and 30 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Specifically, the Examiner states that in claim 9, the Applicant has claimed that “when the determination device judges that the apparatus is set to the external control state, the determination device causes the driving device to drive the image sensing optical system to the image sensing region in response to completion of an image sensing operation.” However, at page 28, lines 16-25, the disclosure teaches that in the PC mode, after the completion of an image sensing, the CPU immediately drives the optical system to the retracted, i.e. non image sensing, region. Applicants respectfully disagree because claim 9 is fully supported by step 55 as shown in Fig. 15.

The Examiner further states that claim 30 has the similar discrepancy as noted in claim 9. Accordingly, Applicants have amended claim 30 to correct the discrepancy.

Thus, in view of the above, it is believed that the §112 rejection is overcome and should be withdrawn.

**4. Response to Rejection Under 35 U.S.C. §103**

In the Office Action, the Examiner relies on Iida in view of Lermann for teaching all the elements in claims 1-53. However, we disagree with the Examiner's conclusions. Applicants propose that the rejections should be withdrawn for at least two reasons. First,

Iida and Lermann, individually or in combination, fail to teach or suggest the determination device or method as recited in claims 1, 20, 36,45, and 50-53.

In the present invention, the determination device performs at least two critical functions. First, judging the state of a camera; and second, determining the operation of driving device based on its judgement. Thus, there is a direct relationship between the determining device and the movement of the optical system. However, there is no such relationship in the prior art cited by the Examiner.

Iida is directed to an image sensing apparatus in a video camera having a protection cover for protecting an image sensing optical system. As shown in Fig. 1, the cover 8 is moved or driven by motor 9 and driver 10, depending on the state of the camera. Thus, there is no relationship between motor 9 and driver 10 or switch 30 and the optical system or optical block 2. To this end, Iida is lacking at least on two fronts. First, there is no teaching of a driver for the optical block; and second, there is no determining device for the operation of optical block. The Examiner relies on Lermann only for teaching the driver for the optical system. Accordingly, the combination of Iida and Lermann still appears to lack the teaching of the relationship between lens driver in Lermann and the operation of the determining device and optical block in Iida. Conversely, in the present invention, Fig. 1 illustrates clearly an encoder 19, motor 11, and driver 18 that control the operation of the optical block 2 based on the state of the image sensing apparatus.

Therefore, even if one of ordinary skill in the art were to combine the teachings of Iida and Lermann, the combination still would not possess all of the elements recited in claims 1, 20, 36, 45, and 50-53. Thus, claims 1, 20, 36,45, and 50-53 are believed to be distinguishable

over Iida in view of Lermann. Likewise, claims 2-119, 21-35, 37-44 and 46-49 are also believed to be distinguishable over Iida in view of Lermann based on their dependency from claims 1, 20, 36, 45, and 50-53, respectively.

Second, Applicants submit that at the time the invention was made, the subject matter of Iida and the claimed invention were owned by the same Assignee, Canon Kabushiki Kaisha. Under the American Inventors Protection Act, subject matter which was prior art under 35 U.S.C. §103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention for applications (e.g., CPAs) filed on or after November 29, 1999. A continued prosecution application (CPA) under 37 CFR 1.53(d) is being filed herewith. Thus, Iida reference should be disqualified as a prior art under 35 USC 103(c).

### **CONCLUSIONS**

In view of the above amendments and arguments, Applicants respectfully submit that all of the stated grounds of rejections have been properly traversed accommodated or rendered moot. Thus, Applicants believe that the present application is in condition for allowance, and issuance of a Notice of Allowance is respectfully requested.

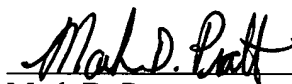
**AUTHORIZATIONS**

Two checks for \$2,090 .00 and \$110.00 are enclosed for covering the fees for filing the CPA and one-month extension of time, respectively. The Commissioner is hereby authorized to charge any additional fees associated with this filing to Deposit Account No. 13-4503, Order No. 1232-4522. Likewise, any overpayment is credited to Deposit Account No. 13-4503, Order No. 1232-4522.

Respectfully submitted,  
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By:



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